

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CESAR ARIAS,

Plaintiff,

Civil Action No. *08 Civ 3286*

- against -

NOTICE OF REMOVAL

STONHARD, INC. ,

Defendant.
-----X

To the United States District Court for the Southern District of New York:

STONCOR GROUP, INC. (incorrectly sued as "Stonhard Inc."), by its attorneys, Herzfeld & Rubin, P.C., 40 Wall Street, New York, New York 10005, submits the following Notice of Removal pursuant to 28 U.S.C. §§1441 and 1446, et seq.

1. On or about March 3, 2008, plaintiff purported to commence this action for personal injuries in the Supreme Court of the State of New York, County of Bronx, with the filing of the Summons and Complaint. (A true and complete copy of the Summons and Complaint is annexed hereto as Exhibit "A").

2. The Summons and Complaint annexed hereto constitute "all process, pleadings and orders" purportedly served on Stonhard in the aforesaid action within the meaning of 28 U.S.C. §1446(a). Stonhard has not answered the Complaint and the time within which it may answer or move with respect to the Complaint has not expired.

3. Stonhard was purported served with the Summons and Complaint on March 11, 2008; This Notice of Removal is filed within thirty (30) days of that service and is therefore timely filed under 28 U.S.C. §1446(b).

4. Upon information provided in the Summons, plaintiff resided in Bronx County, New York, at the time the action was commenced.

5. Defendant, Stonhard was, at the time of the commencement of the action, and still is, a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in New Jersey. As such, Stonhard is not a citizen of the State of New York.

6. This is a civil action of which the Court has original jurisdiction pursuant to 28 U.S.C. §1332. There exists complete diversity of citizenship between the parties named and, upon the allegations of the Complaint, the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs. Accordingly, this action may be removed to this Court by Stonhard pursuant to 28 U.S.C. §1441.

Dated: New York, New York
March 25, 2008

HERZFELD & RUBIN, P.C.

By 

MICHAEL B. SENA (0170)
Attorneys for Defendant, STONCOR
GROUP, INC.
40 Wall Street
New York, New York 10005
Tel: (212) 471-8527

TO:

SPEIGEL & BARBATO, LLP
2622 East Tremont Avenue
Bronx, New York 10461
Attorneys for Plaintiffs

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CESAR ARIAS,

Plaintiff,

-against-

STONHARD, INC.,

Defendant.

INDEX NO. 301716/08

Plaintiff designates
BRONX
County as the place of trial

The Basis of Venue is
Plaintiff's Residence

SUMMONS

Plaintiff resides at
422 Leland Avenue
County of BRONX

To The Above Named Defendant

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within TWENTY (20) days after the service of this summons, exclusive of the day of service (or within THIRTY [30] days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

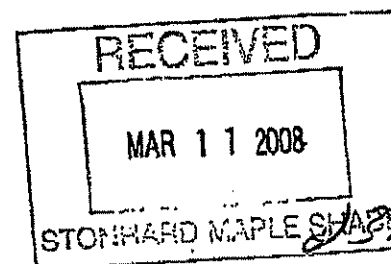
Dated: Bronx, New York
January 29, 2008

Defendant's Address:
VIA: Secretary of State
STONHARD, INC.
1 Park Avenue
Maple Shade, New Jersey 08052

SPIEGEL & BARBATO, LLP
Attorneys for Plaintiff
2622 East Tremont Avenue
Bronx, New York 10461
(718) 828-8200

YOU SHOULD IMMEDIATELY BRING THESE DOCUMENTS TO YOUR
ATTORNEY OR INSURANCE COMPANY

(MR 11/30/07)



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CESAR ARIAS,

Plaintiff,

-against-

STONHARD, INC.,

Defendant.

INDEX NO.

VERIFIED COMPLAINT

Plaintiff, complaining of the defendant, by his attorneys, SPIEGEL & BARBATO, LLP, respectfully shows to this Court and alleges:

1. At all times as stated herein, plaintiff, CESAR ARIAS was and still is a resident of the County of Bronx, City and State of New York.
2. At all times as stated herein, defendant STONHARD, INC. was and still is a domestic corporation or a foreign corporation authorized to do business in the State of New York.
3. At all times as stated herein, there existed a kitchen in the Grand Hyatt Hotel located at 42nd Street at Grand Central, in the City and state of New York, New York, (hereinafter referred to as the "KITCHEN").
4. On or prior to September 19, 2006, defendant STONHARD, INC. its agents, servants and/or employees, did work on the floor in the KITCHEN.
5. On or prior to September 19, 2006, defendant STONHARD, INC. its agents, servants and/or employees, were negligent in the installation of the floor in the KITCHEN.

6. On or about September 19, 2006, plaintiff, CESAR ARIAS was lawfully traversing upon the floor in the KITCHEN when he was caused to slip and fall on the slippery surface of the floor in the KITCHEN.

7. On or prior to September 19, 2006, the aforesaid floor was defective, dangerous, hazardous, unsafe and deficient in design, in that the floor was slippery in its surface.

8. On or about September 19, 2006, while plaintiff CESAR ARIAS was at the aforesaid location, suddenly and without notice or warning, plaintiff was caused to slip, fall and be precipitated to the ground due to negligence of the defendant, its agents, servants and/or employees, in causing and allowing said floor in the KITCHEN, to remain in a defective, deficient, hazardous, dangerous and traplike condition causing serious, severe and permanent injuries to the plaintiff.

9. That the aforementioned occurrence was caused solely as a result of the negligence of the defendant, without any negligence on the part of the plaintiff contributing thereto.

10. That solely as a result of the negligence of the defendant as stated herein, plaintiff CESAR ARIAS sustained serious, severe and permanent injuries and disabilities; pain and suffering and loss of enjoyment of life, was rendered sick, sore, lame and disabled; sustained severe mental anguish, nervous shock and great physical pain; was compelled to obtain medical treatment and will be compelled to undergo further medical treatment for an undetermined amount of time and sustained medical expenses and loss of earnings and, in the future, will sustain further medical and loss of earnings all in an

amount which exceeds the monetary jurisdiction of all lower courts which would otherwise have jurisdiction, such amount to be determined by a judge and/or jury at trial.

WHEREFORE, plaintiff, CESAR ARIAS demands judgment in an amount which exceeds the monetary jurisdiction of all lower courts which would otherwise have jurisdiction, such amount to be determined by a judge and/or jury at trial.

Dated: Bronx, New York
January 28, 2008

SPIEGEL & BARBATO, LLP
Attorneys for Plaintiff
2622 East Tremont Avenue
Bronx, New York 10461
(718) 828-8200

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX
INDEX NO.

CESAR ARIAS,

Plaintiff,

-against-

STONHARD, INC.,

Defendant.

SUMMONS, VERIFIED COMPLAINT AND
NOTICE TO TAKE DEPOSITION UPON ORAL EXAMINATION

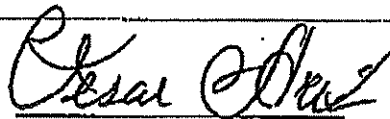


CHARLES H. SPIEGEL
SPIEGEL & BARBATO, LLP
Attorneys for Plaintiff
2622 East Tremont Avenue
Bronx, New York 10461
(718) 828-8200

STATE OF NEW YORK)
COUNTY OF BRONX) ss:

INDIVIDUAL VERIFICATION

The undersigned, being duly sworn, deposes and says that the deponent is the plaintiff in the within action; that deponent has read the foregoing and knows the contents thereof; that the same are true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true.



(Name of Client)

Sworn to before me this
29 day of February 2008

NOTARY PUBLIC

CHARLES M. SPIEGEL
Notary Public, State of New York
No. 60-37-57025
Qualified in Bronx County
Commission Expires August 30, 2011

LAW OFFICES OF

SPIEGEL & BARBATO, LLP, 2622 East Tremont Avenue, Bronx, New York 10461